



# California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

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Arnold  
Schwarzenegger  
Governor

Linda S. Adams  
Secretary for  
Environmental Protection

2 December 2008

**CERTIFIED MAIL**  
7006 2760 0000 0653 7571

Mr. Dale Mitchell  
Environmental Program Manager  
California Department of Fish and Game  
1234 East Shaw Avenue  
Fresno, CA 93710

## **ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0622 FOR ASSESSMENT OF MANDATORY MINIMUM PENALTIES, CALIFORNIA DEPARTMENT OF FISH AND GAME, SAN JOAQUIN FISH HATCHERY, FRESNO COUNTY**

Enclosed is an Administrative Civil Liability Complaint (Complaint), issued pursuant to California Water Code (CWC) section 13385, for violations of Waste Discharge Requirements (WDRs) Order 97-001 (NPDES No. CA0004812) that have occurred at the San Joaquin Fish Hatchery in Fresno County. The Complaint charges California Department of Fish and Game with civil liability in the amount of **twelve thousand dollars (\$12,000)**, which represents the sum of accrued Mandatory Minimum Penalties (MMPs) for four serious effluent limitation violations that occurred during the period of 1 January 2000 through 31 May 2008.

Pursuant to CWC section 13323, California Department of Fish and Game may:

- Pay the assessed civil liability and waive its right to a hearing before the Central Valley Water Board by signing the enclosed waiver (checking off the box next to item #4) and submitting it to this office by **5 January 2009**, along with payment for the full amount;
- Agree to enter into settlement discussions with the Central Valley Water Board and request that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and submitting it to this office by 2 January 2009, along with a letter describing issues to be addressed in settlement negotiations; or
- Contest the Complaint and/or enter into settlement discussions with the Central Valley Water Board without signing the enclosed waiver.

If California Department of Fish and Game chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations in the Complaint. This settlement will be considered final pending a 30-day period of public review, during which time interested parties may comment on this action by submitting information to this office, attention Jeff Hannel. Should the Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the Complaint, return payment, and issue a new complaint.

***California Environmental Protection Agency***

If the Central Valley Water Board does not receive a signed waiver **by 5 January 2009**, then a hearing on this matter will be scheduled for the **5/6 February 2009** Central Valley Water Board meeting in Rancho Cordova. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify an Administrative Civil Liability Order based on the enclosed Complaint, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability. Specific notice about this hearing and its procedures will be provided under separate cover.

Any comments or evidence concerning the enclosed Complaint must be submitted to this office, attention Jeff Hannel, **no later than 5 p.m. on 5 January 2009**. This includes material submitted by California Department of Fish and Game to be considered at a hearing and material submitted by interested parties, including members of the public, who wish to comment on the proposed settlement. If the Central Valley Water Board does not hold a hearing on the matter, and the terms of the final settlement are not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement. Written materials received after **5 p.m. on 5 January 2009** will not be accepted and will not be incorporated into the administrative record if doing so would prejudice any party.

This Complaint has been entered into the California Integrated Water Quality System database as Regulatory Measure 354396.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Jeff Hannel at (559) 445-6193 or Jo Anne Kipps at (559) 445-5035.

LONNIE M. WASS  
Supervising Engineer

Enclosure: Administrative Civil Liability Complaint R5-2008-0622

cc w/ encl: Ms. Pamela Creedon, Central Valley Water Board, Rancho Cordova  
Mr. Kenneth Greenberg, USEPA, Region 9, San Francisco  
Mr. Reed Sato, Office of Enforcement, SWRCB, Sacramento  
Mr. Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento  
Ms. Emel Wadhwani, Office of Chief Counsel, SWRCB, Sacramento  
Ms. Lori Oken, Office of Chief Counsel, SWRCB, Sacramento  
Fresno County Department of Community Health, Fresno  
File: NPDES/A/Ca Dept of Fish & Game Fresno/SAN JOAQUIN FISH  
HATCHERY/5D100804002